

The Honorable James L. Robart

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

Grace Galloway, Andy Lesko, and Brenda  
Shoss, individually and on behalf of all others  
similarly situated,

Plaintiffs,

v.

VALVE CORPORATION, a Washington  
corporation,

Defendant.

No. 2:16-cv-01941-JLR

**DEFENDANT VALVE  
CORPORATION'S ANSWER AND  
AFFIRMATIVE DEFENSES TO  
PLAINTIFFS' FIRST AMENDED  
COMPLAINT**

On December 16, 2020, the Court dismissed all of Plaintiffs' claims other than Plaintiffs' Consumer Protection Act claim based on Valve's alleged support of "lootbox gambling." (Dkt. #65 at 26.) Accordingly, Valve responds herein only to Plaintiffs' sole remaining claim under the CPA related to "lootbox gambling" and allegations that reasonably relate to the remaining CPA cause of action regarding "lootbox gambling." (See Dkt. #70.) With respect to such allegations, each allegation not specifically admitted herein is denied. To the extent any headings in Plaintiffs' First Amended Complaint state factual allegations, such allegations are also denied.

1 No response is necessary or required to Plaintiffs' other claims and factual allegations.  
 2 Insofar as a response is required, Valve denies all other claims and factual allegations.

### 3 NATURE OF THE CASE

4 1. Valve admits that it is a Washington corporation headquartered in Bellevue,  
 5 Washington, that it develops and distributes video games on its online gaming platform, Steam,  
 6 that it does business through the Internet, and that its products and services are available to users  
 7 in all 50 states, including Washington State. Valve denies any remaining allegations in  
 8 Paragraph 1.

9 2. Valve admits it does not have a Washington State license to operate, facilitate, or  
 10 engage in gambling, but denies that any of its activities constitute gambling and denies the  
 11 remaining allegations in Paragraph 2.

12 3. Valve denies the allegations in Paragraph 3.

13 4. Valve admits that it received a letter from the State of Washington's Gambling  
 14 Commission dated September 27, 2016. The letter speaks for itself as to its contents and legal  
 15 significance, if any. Valve denies the remaining allegations in Paragraph 4.

16 5. Valve admits that it introduced decorative virtual items called "skins" into CS:GO  
 17 in 2013. Valve also admits that skins can be bought or sold on the Steam Community Market for  
 18 virtual Steam Wallet funds and that skins can be traded using Steam trading. Valve denies the  
 19 remaining allegations in Paragraph 5.

20 6. The allegations contained in Paragraph 6 relate to causes of action the Court  
 21 previously dismissed with prejudice (Dkt. #65), and therefore no response is required. Insofar as  
 22 a response is required, Valve denies the allegations in Paragraph 6.

23 7. Valve admits that CS:GO competitive matches have been broadcast through  
 24 online streaming broadcasts and that in one or more instances there have been 380,000 or more  
 25 concurrent CS:GO players. Valve lacks knowledge or information sufficient to form a belief as  
 26 to the truth of the remaining allegations in Paragraph 7, and therefore denies the same.

1           8.     Valve denies the allegations in Paragraph 8.

2           9.     Valve denies the allegations in Paragraph 9.

3           10.    Valve denies the allegations in Paragraph 10.

4           11.    Valve admits that CS:GO players can obtain weapons cases during gameplay and  
5 that Valve sells virtual keys that can be used to open weapons cases. The referenced website  
6 posts speak for themselves as to their contents and legal significance, if any. Valve denies the  
7 remaining allegations in Paragraph 11.

8           12.    Valve denies the allegations in Paragraph 12.

9           13–20.       The allegations in Paragraphs 13 through 20 relate to causes of action the  
10 Court previously dismissed with prejudice (Dkt. #65), and therefore no response is required.  
11 Insofar as a response is required, Valve denies the allegations in Paragraphs 13 through 20.

12           21.    Valve admits that Plaintiffs filed this lawsuit on behalf of themselves and their  
13 children and that the Court entered an Order compelling arbitration (Dkt. #30). Valve further  
14 admits that the arbitrators entered awards in Valve’s favor in AAA Case No. 01-18-0001-7977  
15 and AAA Case No. 01-18-0001-7979. Those awards speak for themselves as to their contents  
16 and legal significance. Valve denies the remaining allegations and characterizations of the  
17 arbitrators’ awards in Paragraph 21.

18           22.    The arbitrators’ awards speak for themselves as to their contents and legal  
19 significance. Valve denies the allegations and characterizations of the arbitrators’ awards in  
20 Paragraph 22.

21           23.    The allegations contained in Paragraph 23 relate to causes of action the Court  
22 previously dismissed with prejudice (Dkt. #65), and therefore no response is required. Insofar as  
23 a response is required, Valve denies the allegations in Paragraph 23.

24           24.    Valve denies the allegations in Paragraph 24.

25. Valve admits that Plaintiffs filed this lawsuit on behalf of themselves and on behalf of others allegedly similarly situated. Valve denies the remaining allegations in Paragraph 25.

### **PARTIES, JURISDICTION AND VENUE**

26. Valve admits that it is a Washington corporation headquartered in Bellevue, Washington and that it does business in the United States, including in King County, Washington. Valve further admits that it developed and released CS:GO. Valve denies any remaining allegations in Paragraph 26.

27. Valve lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 27, and therefore denies the same.

28. Valve lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 28, and therefore denies the same.

29. Valve lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 29, and therefore denies the same.

30. Paragraph 30 contains a legal conclusion to which no response is required. To the extent a response is required, Valve admits that it is a Washington corporation headquartered in Bellevue, Washington and does not dispute that venue for this action is proper in the United States District Court for the Western District of Washington. Valve lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 30, and therefore denies the same.

### **FACTUAL BACKGROUND**<sup>1</sup>

2. Valve admits that it develops video games, including CS:GO, and admits that it released CS:GO in 2012. Valve denies the remaining allegations in Paragraph 2.

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<sup>1</sup> The numbering in Plaintiffs' First Amended Complaint re-starts with Paragraph 2 in the section titled "Factual Background." Valve's responses follow the numbering in Plaintiffs' First Amended Complaint.

1           3.       Valve admits that CS:GO is a first-person shooter game and that it was released in  
2 2012. Valve denies the remaining allegations in Paragraph 3.

3           4.       Valve admits that a post titled “The Arms Deal Update” was made to  
4 <https://blog.counter-strike.net> on or about August 14, 2013. The website post speaks for itself as  
5 to its contents and legal significance, if any. Valve denies the remaining allegations in  
6 Paragraph 4.

7           5.       The referenced website post speaks for itself as to its contents and legal  
8 significance, if any. Valve denies the remaining allegations in Paragraph 5.

9           6.       The referenced website post speaks for itself as to its contents and legal  
10 significance, if any. Valve denies the remaining allegations in Paragraph 6.

11          7.       The referenced website post speaks for itself as to its contents and legal  
12 significance, if any. Valve denies the remaining allegations in Paragraph 7.

13          8.       Valve admits that it owns Steam and [www.steampowered.com](http://www.steampowered.com), and admits that  
14 Steam has various features, for example as described at <https://store.steampowered.com/about>.  
15 Valve denies the remaining allegations contained in Paragraph 8.

16          9.       Valve admits that it charges a Steam transaction fee and a CS:GO fee on certain  
17 transactions on the Steam Community Market, as described at  
18 [https://support.steampowered.com/kb\\_article.php?ref=6088-UDXM-7214](https://support.steampowered.com/kb_article.php?ref=6088-UDXM-7214). Valve denies the  
19 remaining allegations in Paragraph 9.

20          10.      Valve denies the allegations in Paragraph 10.

21          11.      The referenced website post speaks for itself as to its contents and legal  
22 significance, if any. Valve denies the remaining allegations in Paragraph 11.

23          12.      Valve admits that it has consulted an economist, but denies the remaining  
24 allegations in Paragraph 12.

1           13.     The allegations in Paragraph 13 relate to causes of action the Court previously  
2 dismissed with prejudice (Dkt. #65), and therefore no response is required. Insofar as a response  
3 is required, Valve denies the allegations in Paragraph 13.

4           14.     The allegations in Paragraph 14 relate to causes of action the Court previously  
5 dismissed with prejudice (Dkt. #65), and therefore no response is required. Insofar as a response  
6 is required, Valve denies the allegations in Paragraph 14.

7           15.     The allegations in Paragraph 15 relate to causes of action the Court previously  
8 dismissed with prejudice (Dkt. #65), and therefore no response is required. Insofar as a response  
9 is required, Valve denies the allegations in Paragraph 15.

10          16.     Valve denies the allegations in Paragraph 16.

11          17.     Valve admits that CS:GO players can obtain weapons cases during gameplay and  
12 that Valve sells virtual keys that can be used to open weapons cases. Valve denies the remaining  
13 allegations in Paragraph 17.

14          18.     The referenced website post speaks for itself as to its contents and legal  
15 significance, if any. Valve denies the remaining allegations in Paragraph 18.

16          19.     Valve denies the allegations in Paragraph 19.

17          20.     The allegations in Paragraph 20 relate to causes of action the Court previously  
18 dismissed with prejudice (Dkt. #65), and therefore no response is required. Insofar as a response  
19 is required, Valve denies the allegations in Paragraph 20.

20          21.     The allegation in Paragraph 21 regarding Valve's obligation to disclose odds is a  
21 legal conclusion to which no response is required. Valve denies all allegations in Paragraph 21  
22 to which a response is required.

23          22.     Valve admits that virtual items that can potentially be received from opening a  
24 weapons crate are identified to users before and during the crate opening process, but otherwise  
25 denies the allegations in Paragraph 22.

1           23.     The referenced publication speaks for itself as to its contents and legal  
2 significance, if any. Valve denies the remaining allegations in Paragraph 23.

3           24.     Valve admits that skins can be bought or sold on the Steam Community Market  
4 for virtual Steam Wallet funds. Valve also admits that it charges a Steam transaction fee and a  
5 CS:GO fee on certain transactions on the Steam Community Market, as described at  
6 [https://support.steampowered.com/kb\\_article.php?ref=6088-UDXM-7214](https://support.steampowered.com/kb_article.php?ref=6088-UDXM-7214). Valve denies the  
7 remaining allegations in Paragraph 24.

8           25.     Valve admits that skins can be obtained through gameplay and can be bought or  
9 sold on the Steam Community Market for virtual Steam Wallet funds, and admits that skins can  
10 be traded using Steam trading. Valve denies the remaining allegations in Paragraph 25.

11          26–32.     The allegations in Paragraphs 26 through 32 relate to causes of action the  
12 Court previously dismissed with prejudice (Dkt. #65), and therefore no response is required.  
13 Insofar as a response is required, Valve denies the allegations in Paragraph 26 through 32.

14          33.     Valve admits that skins can be bought or sold on the Steam Community Market  
15 for virtual Steam Wallet funds and that virtual Steam Wallet funds can be used to make  
16 purchases on the Steam Community Market. Valve denies the remaining allegations in  
17 Paragraph 33.

18          34.     The arbitrators' awards speak for themselves as to their contents and legal  
19 significance. Valve denies the remaining allegations and characterizations of the arbitrators'  
20 awards in Paragraph 34.

21          35–41.     The allegations in Paragraphs 35 through 41 relate to causes of action the  
22 Court previously dismissed with prejudice (Dkt. #65), and therefore no response is required.  
23 Insofar as a response is required, Valve denies the allegations in Paragraph 35 through 41.

24          42.     Valve denies the allegations in Paragraph 42.  
25  
26

43–57. The allegations in Paragraphs 43 through 57 relate to causes of action the Court previously dismissed with prejudice (Dkt. #65), and therefore no response is required. Insofar as a response is required, Valve denies the allegations in Paragraph 43 through 57.

58. Valve lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 58, and therefore denies the same.

59–69. The allegations in Paragraphs 59 through 69 relate to causes of action the Court previously dismissed with prejudice (Dkt. #65), and therefore no response is required. Insofar as a response is required, Valve denies the allegations in Paragraph 59 through 69.

70. Valve denies the allegations in Paragraph 70.

71–74. The allegations in Paragraphs 71 through 74 relate to causes of action the Court previously dismissed with prejudice (Dkt. #65), and therefore no response is required. Insofar as a response is required, Valve denies the allegations in Paragraph 71 through 74.

75. Valve lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 75, and therefore denies the same.

76. Valve denies the allegations in Paragraph 76.

77. Valve lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 77, and therefore denies the same.

78. Valve lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 78, and therefore denies the same.

79. Valve lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 79, and therefore denies the same.

80. Valve denies the allegations in Paragraph 80.

### **APPLICABLE LAW**

81. Answering the first sentence of Paragraph 81, Valve admits that it is a Washington corporation headquartered in Bellevue, Washington. The remaining allegations in Paragraph 81 are legal conclusions to which no response is required. To the extent a response is



1 required, Valve does not dispute that the State of Washington has the most significant contacts  
 2 with Plaintiffs' claims pled in the First Amended Complaint, but denies the remaining allegations  
 3 in Paragraph 81.

4 82. Valve lacks knowledge or information sufficient to form a belief as to the truth of  
 5 the remaining allegations in Paragraph 82, and therefore denies the same.

6 83. Paragraph 83 contains legal conclusions to which no response is required. To the  
 7 extent a response is required, Valve does not dispute that Washington law applies to this action.  
 8 Valve denies the remaining allegations in Paragraph 83.

#### 9 **CLASS ALLEGATIONS**

10 84. Paragraph 84 contains legal conclusions to which no response is required. To the  
 11 extent a response is required, Valve denies the allegations in Paragraph 84.

12 85. Paragraph 85 contains legal conclusions to which no response is required. To the  
 13 extent a response is required, Valve denies the allegations in Paragraph 85.

14 86. Paragraph 86 contains legal conclusions to which no response is required. To the  
 15 extent a response is required, Valve denies the allegations in Paragraph 86.

16 87. Paragraph 87 contains legal conclusions to which no response is required. To the  
 17 extent a response is required, Valve denies the allegations in Paragraph 87.

18 88. Paragraph 88 contains legal conclusions to which no response is required. To the  
 19 extent a response is required, Valve denies the allegations in Paragraph 88, including subparts a  
 20 through k.

21 89. Paragraph 89 contains legal conclusions to which no response is required. To the  
 22 extent a response is required, Valve denies the allegations in Paragraph 89.

23 90. Paragraph 90 contains legal conclusions to which no response is required. To the  
 24 extent a response is required, Valve denies the allegations in Paragraph 90.

25 91. Paragraph 91 contains legal conclusions to which no response is required. To the  
 26 extent a response is required, Valve denies the allegations in Paragraph 91.

93. Paragraph 93 contains legal conclusions to which no response is required. To the extent a response is required, Valve denies the allegations in Paragraph 93.

94. Paragraph 94 contains legal conclusions to which no response is required. To the extent a response is required, Valve denies the allegations in Paragraph 94.

95. Paragraph 95 contains legal conclusions to which no response is required. To the extent a response is required, Valve denies the allegations in Paragraph 95.

96. Paragraph 96 contains legal conclusions to which no response is required. To the extent a response is required, Valve denies the allegations in Paragraph 96.

97. Paragraph 97 contains legal conclusions to which no response is required. To the extent a response is required, Valve denies the allegations in Paragraph 97.

98. Paragraph 98 contains legal conclusions to which no response is required. To the extent a response is required, Valve denies the allegations in Paragraph 98.

99. Valve incorporates by reference its answers to the preceding paragraphs as if fully set forth in this paragraph.

100. Valve admits that it is headquartered in Bellevue, Washington, that substantially all of its employees work in Washington, and that many of its business operations occur in Washington State. Valve denies the remaining allegations in Paragraph 100.

101. Valve denies the allegations in Paragraph 101

102. No response to the allegations in Paragraph 102 is required because the Court dismissed Plaintiffs' CPA claim based on alleged skins gambling with prejudice. (Dkt. #65 at 19–20.) Insofar as a response is required, Valve denies the allegations in Paragraph 102.

1           103. Valve acknowledges the existence of the referenced statute, which speaks for  
2 itself. Valve denies any allegations inconsistent with the statute. To the extent Paragraph 103  
3 alleges a cause of action against Valve, those allegations are denied.

4           104. Valve acknowledges the existence of the referenced statute, which speaks for  
5 itself. Valve denies any allegations inconsistent with the statute. To the extent Paragraph 104  
6 alleges a cause of action against Valve, those allegations are denied.

7           105. Valve denies the allegations in Paragraph 105.

8           106. No response to the allegations in Paragraph 106 is required because the Court  
9 dismissed Plaintiffs' *per se* CPA claim based on alleged violations of WAC 230-06-010 and the  
10 Gambling Act of 1973 with prejudice. (Dkt. #65 at 19–20.) Insofar as a response is required,  
11 Valve denies the allegations in Paragraph 106.

12           107. No response to the allegations in Paragraph 107 is required because the Court  
13 dismissed Plaintiffs' *per se* CPA claim based on alleged violations of WAC 230-06-010 and the  
14 Gambling Act of 1973 with prejudice. (Dkt. #65 at 19–20.) Insofar as a response is required,  
15 Valve denies the allegations in Paragraph 107.

16           108. No response to the allegations in Paragraph 107 is required because the Court  
17 dismissed Plaintiffs' *per se* CPA claim based on alleged violations of WAC 230-06-010 and the  
18 Gambling Act of 1973 with prejudice. (Dkt. #65 at 19–20.) Insofar as a response is required,  
19 Valve denies the allegations in Paragraph 108.

20           109. Valve denies the allegations in Paragraph 109.

21           110. Valve denies the allegations in Paragraph 110.

22           111. Valve denies the allegations in Paragraph 111.

23           112. Valve denies the allegations in Paragraph 112.

24           113. Valve denies the allegations in Paragraph 113.

25           114. Valve denies the allegations in Paragraph 114.

26           115. Valve denies the allegations in Paragraph 115.

1 116. Valve denies the allegations in Paragraph 116.

2 117. Valve denies the allegations in Paragraph 117.

3 118. Valve denies the allegations in Paragraph 118.

4 **COUNT II**  
5 **VIOLATIONS OF THE GAMBLING ACT OF 1973,**  
6 **RCW 9.46 ET SEQ.**

7 119. Valve incorporates by reference its answers to the preceding paragraphs as if fully  
8 set forth in this paragraph.

9 120–127. No response to this claim or these allegations is required because the  
10 Court dismissed Plaintiffs’ claim for violations of the Gambling Act of 1973 with prejudice.  
11 (Dkt. #65 at 20.) Insofar as a response is required, Valve denies the allegations in Paragraph 120  
12 through 127.

13 **COUNT III**  
14 **UNJUST ENRICHMENT**

15 128. Valve incorporates by reference its answers to the preceding paragraphs as if fully  
16 set forth in this paragraph.

17 129–137. No response to this claim or these allegations is required because the  
18 Court dismissed Plaintiffs’ unjust enrichment claim. (Dkt. #65 at 22.) Insofar as a response is  
19 required, Valve denies the allegations in Paragraph 129 through 137.

20 **COUNT IV**  
21 **NEGLIGENCE**

22 138. Valve incorporates by reference its answers to the preceding paragraphs as if fully  
23 set forth in this paragraph.

24 139–144. No response to this claim or these allegations is required because the  
25 Court dismissed Plaintiffs’ negligence claim. (Dkt. #65 at 25.) Insofar as a response is required,  
26 Valve denies the allegations in Paragraph 139 through 144.

**COUNT V**  
**INJUNCTIVE RELIEF**

In lieu of formally re-pleading, for efficiency the parties agreed (*see* Dkt. #70) to treat Plaintiffs' allegations for injunctive relief in Paragraphs 145 through 163 of Plaintiffs' First Amended Complaint as a request for injunctive relief under Plaintiffs' remaining Consumer Protection Act claim and as being part of the Prayer for Relief in Plaintiffs' First Amended Complaint. Valve responds to those allegations below. For consistency, Valve's responses follow the original structure and numbering in Plaintiffs' First Amended Complaint. Insofar as any further or different response is required, Valve denies that Plaintiffs are entitled to any of the injunctive or other relief sought through Plaintiffs' previously plead Count V.

145. Valve incorporates by reference its answers to the preceding paragraphs as if fully set forth in this paragraph.

146. The allegations contained in Paragraph 146 relate to causes of action the Court previously dismissed with prejudice (Dkt. #65), and therefore no response is required. Insofar as a response is required, Valve denies the allegations in Paragraph 146.

147. Valve denies the allegations in Paragraph 147.

148. Paragraph 148 does not contain any allegations to which a response is required. To the extent a response is required, Valve denies the allegations in Paragraph 148 and denies that Plaintiffs are entitled to certification of a class under Fed. R. Civ. P. 23 or any other relief whatsoever from Valve.

149–163. Valve denies that Plaintiffs are entitled to any relief whatsoever from Valve and further denies all allegations contained in Paragraphs 149 through 163.

**PRAYER FOR RELIEF**

Valve denies that Plaintiffs are entitled to any relief whatsoever from Valve and further denies all allegations contained in the section of Plaintiffs' First Amended Complaint titled "Prayer for Relief."

**DEFENDANT'S AFFIRMATIVE DEFENSES**

For its affirmative defenses to Plaintiffs' First Amended Complaint, Valve alleges as follows:

1. Plaintiffs' First Amended Complaint fails to state a claim upon which relief can be granted.

2. Plaintiffs' claims are barred, in whole or in part, because Plaintiffs lack standing to bring such claims.

3. Plaintiffs' alleged damages, if any, were caused in whole or in part by the acts or omissions of third parties over whom Valve has no control and for whose actions Valve is not legally responsible.

4. The fault of all actors—whether or not joined as parties to this lawsuit—must be evaluated and the liability apportioned among all actors in proportion to their comparative fault pursuant to RCW 4.22.070.

5. Plaintiffs have an adequate remedy at law, barring any equitable relief.

6. Some of Plaintiffs' allegations and claims are barred by the doctrines of law of the case, claim preclusion, or issue preclusion.

7. Plaintiffs' and the putative class members' claims are barred in whole or in part by the applicable statute of limitations.

Valve reserves the right to amend its Answer to assert such additional defenses, counterclaims, or third-party claims for which a basis becomes apparent during the continuing course of discovery during this action.

**DEFENDANT'S PRAYER FOR RELIEF**

WHEREFORE, having fully answered Plaintiffs' First Amended Complaint, Valve prays for the following relief:

- A. An order dismissing Plaintiffs' First Amended Complaint against Valve with prejudice;
- B. An award of all its attorneys' fees and costs to the extent permitted by law; and
- C. For such other and further relief as this Court deems just and equitable.

DATED this 15th day of January, 2021.

FOX ROTHSCHILD LLP

By s/ Gavin W. Skok

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Attorneys for Defendant Valve Corporation

**CERTIFICATE OF SERVICE**

I certify that I am a secretary at the law firm of Fox Rothschild LLP in Seattle, Washington. I am a U.S. citizen over the age of eighteen years and not a party to the within cause. On the date shown below, I caused to be served a true and correct copy of the foregoing on counsel of record for all other parties to this action as indicated below:

| <b><u>Service List</u></b>  |   |
|---|---|
| Kim D. Stephens, WSBA #11984<br>Jason T. Dennett, WSBA #30686<br><b>TOUSLEY BRAIN STEPHENS PLLC</b><br>1700 Seventh Avenue, Suite 2200<br>Seattle, WA 98101<br>Tel: (206) 682-5600<br>Fax: (206) 682-2992<br><a href="mailto:KStephens@tousley.com">KStephens@tousley.com</a><br><a href="mailto:jdennett@tousley.com">jdennett@tousley.com</a><br><br><i>Attorneys for Plaintiffs</i>  | <input type="checkbox"/> Via US Mail<br><input type="checkbox"/> Via Messenger<br><input checked="" type="checkbox"/> Via ECF/ Email<br><input type="checkbox"/> Via over-night delivery  |
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EXECUTED this 15<sup>th</sup> day of January, 2021, in Tacoma, Washington.

  
 Courtney R. Brooks